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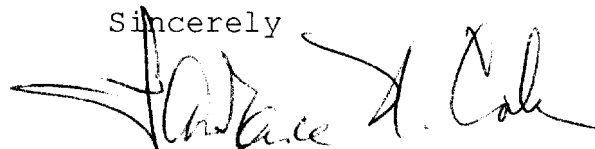
February 12, 1998

Ms. Magalie Salas
Secretary
Federal Communications Commission
1919 M Street, NW
Room 222
Washington, DC 20554

Dear Ms. Salas

On behalf of Heftel Broadcasting Corporation and Jerry Snyder and Associates, Inc., there is herewith submitted an original and four (4) copies of their Joint Reply Comments in MM Docket No. 97-91 (RM-8854).

Sincerely


Lawrence N. Cohn

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Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 97-91
Table of Allotments,) RM-8854
FM Broadcast Stations)
(Lewisville, Gainesville, Robinson,)
Corsicana, Jacksboro, and)
Mineral Wells, Texas))

To: Chief, Allocations Branch

JOINT REPLY COMMENTS OF
HEFTEL BROADCASTING CORPORATION AND
JERRY SNYDER AND ASSOCIATES, INC.

Heftel Broadcasting Corporation ("Heftel") and Jerry Snyder and Associates, Inc. ("Snyder") (both the "Joint Commentors") hereby respectfully submit their Joint Comments in the above-captioned rulemaking proceeding.¹ In regard thereto, it is stated as follows:

I. Background.

FM Channel 240C1 is presently assigned to Mineral Wells, Texas. See, *Table of FM Allotments - Mineral Wells, Texas*, 7 FCC Rcd. 1791 (Chief, Allocations Branch, 1992). Snyder presently has an application on file to increase the power of Snyder's station KYXS-FM to a Class C1 operation and change site. This application was accepted for filing on January 21, 1997, (BPH-961125IG). Throughout the above captioned proceeding, Snyder, both in its application and in its comments, has expressed its interest in applying for, constructing, and

¹On January 28, 1998, the FCC issued Public Notice 81543 authorizing the filing of further reply comments in the above captioned proceeding to be filed no later than February 12, 1998.

operating the FM station operating on Channel 240C1 to serve Mineral Wells, Texas, and to modify the license of KYXS accordingly. Snyder has at no time desired to dismiss or withdraw that expression of intent and reaffirms herein Snyder's intent to prosecute the Channel 240C1 application for Mineral Wells.

In the above captioned proceeding, Heftel seeks to have Channel 300C1 assigned to Lewisville, Texas as a first service and the modification of its construction permit for KECS accordingly. Heftel also seeks the assignment of Channel 300A to Robinson, Texas, and the modification of its license for KICI accordingly. Heftel also affirms herein its intent to effectuate these changes.

II. The Proposed Resolution of the Present Conflict.

It is a basic principle of law that the public interest lies in any resolution which would increase the efficient use of spectrum. See, Section 307(b) of the *Communications Act of 1934*, as Amended. To this end, the Joint Commentors have tried to find a way in which the C1 allotment to Mineral Wells could be retained, while simultaneously having the above captioned Heftel rulemaking proposal granted, except to the extent that modification of the Channel 240C1 allotment to Channel 240C3 would not be required.

Mineral Wells is west of Lewisville, Texas. The only reason that the Channel 240C1 allotment at Mineral Wells needs to be modified to Channel 240C3 is for compliance with the FCC's spacing requirements. If the reference point for the Channel 240C1 allotment at Mineral Wells could be changed to move further west and still meet all spacing requirements, then both the Heftel rulemaking proposal and Snyder's desire to operate station KYXS as a Class C1 facility could be achieved.

An engineering study had been conducted, a copy of which is attached hereto. This study shows that by changing the reference point of the present C1 allotment of North Latitude 32° 41' 06" and West Longitude 98° 09' 32" to one within the area encompassed by the attached engineering study, the C1 allotment to Mineral Wells can be retained and the Heftel rulemaking proposal granted. The FCC has broad powers to make modifications to proposals in the rulemaking process, where to do so would better serve the public interest. See, *FM Table of Allotments--Pinewood, South Carolina*, 5 FCC Rcd. 7609, 7610 ¶ 11 (1990) ("Pinewood"), "[w]e believe it is appropriate for a party in a proceeding to suggest alternative channels which lead to a resolution which respect to the communities already at issue in the proceeding."

Here, the Joint Commentators believe that the doctrine enunciated in *Pinewood* is as applicable to changes of a reference point to resolve conflicts, as it is to alternative channels. The problem Snyder faced is the fact that if the reference point is moved as proposed, Snyder will have to find a new site and station KYXS operating at the new reference point will serve less population than it would if the FCC granted the application to modify KYXS as proposed in the application on file BPH-961125IG.

III. The Resolution.

Snyder believes that the Channel 240C1 allotment at Mineral Wells can be retained. However, the change will require Snyder to go to considerable expense to find a new transmitter site and that site will be less commercially viable because to move to the west of Mineral Wells results in a loss of population that would be served by Snyder if his present application (BPH-961125IG) were granted.

To resolve this problem, Heftel has proposed to compensate Snyder if as a result, the Heftel proposal can be granted, Mineral Wells can still be served by Channel 240C1 and the FCC and the parties are spared the time and expense of further litigation. Snyder does not intend to dismiss or withdraw his expression of intent to apply for, construct and operate station KYXS as modified on Channel 240C1. Thus, Section 1.420(j) of the FCC rules does not apply to the proposed resolution. Indeed, the proposed resolution will not only expedite the provision of a first service to Lewisville and Robinson, Texas, but also C1 service to Mineral Wells. To this effect, the Joint Commentators have entered into a Compensation Agreement to compensate Snyder not only for his costs in modifying his application to specify a new site² but also, in part, for the loss of value of KYXS operating at the new reference point rather than proposed.

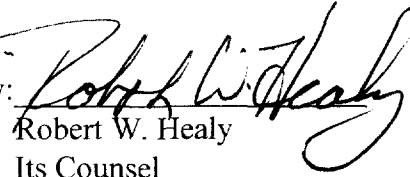
CONCLUSION

The Joint Commentators respectfully submit that the resolution of this dispute proposed in the Compensation Agreement between Heftel and Snyder be approved as in the public interest permitting the Channel 240C1 allotment to Mineral Wells to be retained, but at a new reference point and the proceeding in Docket No. 97-91 be modified accordingly.

Respectfully submitted,

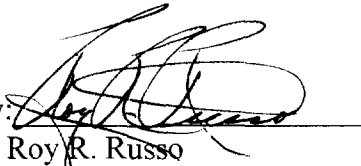
²Upon the issuance of an *Order* in accordance with this proposal, Snyder will file an amendment to its application specifying a new site within ninety (90) days.

JERRY SNYDER AND ASSOCIATES, INC.

By: 

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February 12, 1998

du Treil, Lundin & Rackley, Inc.

A Subsidiary of A.D. Ring, P.A.

ENGINEERING STATEMENT
CONCERNING CHANNEL 240C1 ALLOTMENT AT MINERAL WELLS, TEXAS
PREPARED FOR
HEFTEL BROADCASTING CORP.

This Engineering Statement was prepared on behalf of Heftel Broadcasting Corp concerning the Channel 240C1 allotment for Mineral Wells, Texas in connection with allotment proposals in MM Docket 97-91. It is demonstrated herein that a fully-spaced area to locate for Channel 240C1 at Mineral Wells exists considering the proposed allotment of Channel 237A to Jacksboro, Texas (RM-8854). New reference coordinates for the Channel 240C1 allotment at Mineral Wells are proposed.

An allocation study was prepared in consideration of the separation requirements of Section 73.207 of the FCC Rules and the coverage requirements of Section 73.315 of the FCC Rules for Channel 240C1 at Mineral Wells. It was determined that a significant fully-spaced area-to-locate exists for Channel 240C1 notwithstanding the allotment of Channel 237A to Jacksboro. New reference coordinates for Channel 240C1 at Mineral Wells within the fully-space zone were chosen as indicated in Table I below:

Table I - Reference Coordinates for Channel 240C1 at Mineral Wells, Texas	
	32°35'08"N
	98°28'50"W

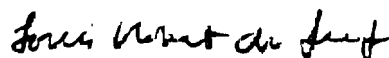
The reference site is located approximately 43 km southwest of Mineral Wells.

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Page 3

70 dBu principal community coverage of Mineral Wells. The fully-spaced area-to-locate for Channel 240C1 is estimated to exceed 86 square kilometers in area.



Louis Robert du Treil, Jr.

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February 12, 1998

figure 1



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A separation study prepared utilizing the above listed reference coordinates indicates that the proposed allotment meets the separation requirements of Section 73.207 of the FCC rules with respect to all existing or proposed allotments and assignments. Table II below summarizes the separation study prepared with respect to all pertinent allotments and assignments:

Table II - Separation Study for Channel 240C1 at Mineral Wells Using Proposed New Allotment Reference Coordinates							
Call Status	City State	FCC File No.	Channel Freq.	Latitude Longitude	Bearing deg-Tru	Dist. (km)	Req. (km)
PADD	Jacksboro TX	RM8854	237A 95.3	33-13-06 98-09-48	22.7	76.20 1.20	75 CLOSE
KCKR APP	Waco TX	BPH970716IB	239C2 95.7	31-30-51 97-11-43	134.2 SS	169.86 11.86	158 CLOSE
KKAJFM LIC	Ardenmore OK	BLH6267	239C1 95.7	34-05-56 97-10-54	35.3	206.86 29.86	177 CLEAR
KYXSFM APP	Mineral Wells TX	BPH961125IG	240C1 95.9	32-39-35 98-09-34	74.6	31.25	
(Pending application for KYXS-FM, Channel 240C1.)							
ALC	Mineral Wells TX	Docket 90-555	240C1 95.9	32-41-06 98-09-32	69.8	32.15	
(Existing Mineral Wells allotment.)							
KYXSFM LIC	Mineral Wells TX	BLH910517KD	240C3 95.9	32-48-42 98-06-11	54.5	40.39	
(Licensed KYXS-FM Channel-240C3 facility.)							
KYBE CP	Frederick OK	BPH960202IC	240A 95.9	34-23-30 99-01-51	345.9	206.74 6.74	200 CLOSE
KYBE LIC	Frederick OK	BLH820712AJ	240A 95.9	34-23-30 99-01-51	345.9	206.74 6.74	200 CLOSE
KMRTFM LIC	Granbury TX	BLH900125KC	294C 106.7	32-15-07 98-02-48	132.2	55.09 14.09	41 CLOSE

As indicated in Figure 1, the site-restricted reference site for Mineral Wells will easily provide the requisite

Certificate of Service

I, Michelle A. Bundy, a secretary in the law firm of Cohn and Marks, hereby certify that I have, this 12th day of February, 1998, sent by U.S. mail, postage prepaid, the foregoing JOINT REPLY COMMENTS OF HEFTEL BROADCASTING CORPORATION AND JERRY SNYDER AND ASSOCIATES, INC. to the following:

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Michelle A. Bundy

February 12, 1998